

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Release Number: **201307012**
Release Date: 2/15/2013
Date: **November 20, 2012**

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL LIST:
4942.03-07

a =
b =
c =
M =
W =
X =
Y =
Z =

Dear

Why you are receiving this letter

This is our response to your February 21, 2012, letter requesting approval of a set-aside under Internal Revenue Code section 4942(g)(2). You've been recognized as tax-exempt under section 501(c)(3) of the Code and have been determined to be a private foundation under section 509(a).

Our determination

Based on the information furnished, your set-aside program is approved under Internal Revenue Code section 4942(g)(2). As required under section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Description of set-aside request

You have requested approval of a set-aside of a dollars for the taxable year ending December , 20 , for the purpose of funding an addition to the existing W located in X. W houses a museum dedicated to educating the public about the

Second Temple period, and exhibiting items excavated from the Temple Mount area. The set-aside will be paid to Y, a publicly supported charity exempt under Section 501(c)(3). Y will provide funding to Z, an independent governmental authority of foreign country M, for the archaeological excavation, restoration and infrastructure improvements to a structure dating from the seventh century, augmenting the existing W facilities through the addition of a 4,000 square foot exhibition space (the Project). The Project is currently in the planning stage. Furthermore, archeologists have never fully excavated the site. Consequently, various permits and approvals will have to be obtained before the Project can proceed, and local parties to supervise the excavation and construction have not been identified. Construction will not begin until 2013 and is expected to span several years. The accomplishment of the Project through an immediate payment of funds is therefore impractical.

The set-aside will be disbursed to Y in two payments. By the terms of your agreement with Y you will disburse b dollars, within thirty days of having been provided a written certification of the completion of the Project (including a certification that all approvals, authorizations, consents and permits from all applicable governmental authorities have been validly obtained), and a written itemization of Project costs; and you will make the second payment, of c dollars, within thirty days of having been provided a written certification confirming the opening of all parts of the Project to the public. Y will in the meantime furnish you with quarterly progress reports on the Project. Y expects that the completed Project will be ready for opening to the public for its intended use no later than the fifth anniversary of the date of the agreement, about ten months before the end of the sixtieth month from the date of the set-aside. Reimbursement of Y for the expenditures it incurred on condition of its providing the certifications is a prudent and effective means of ensuring that the Project will be completed in a proper and timely fashion.

One of your foundation managers has provided a written statement that the a dollars set aside will actually be paid for the Projects within 60 months after the date of the set-aside.

Basis for our determination

Internal Revenue Code section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 77-7, 1977-1 C.B. 354, the term "specific project" as defined in section 53.4942(a)-3(b)(2) of the Excise Tax Regulations was held to include a building project to be undertaken by a public charity unrelated to the foundation making the set-aside.

What you must do

Your approved set-aside will be documented on your records as a pledge or obligation to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

Additional information

This determination is directed only to the organization that requested it. Internal Revenue Code section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this letter in your records. We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Holly O Paz
Director, Exempt Organizations
Rulings and Agreements

Enclosure